

JAN 17 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BESY ARELY MALDONADO-PEREZ,
aka Betsy aka Besy Arely-Maldonado aka
Besy Arely Maldondo-Perez aka Betsy
Maldonado-Perez,

Defendant - Appellant.

No. 04-10591

D.C. No. CR-03-01064-SMM

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Arizona
Stephen M. McNamee, District Judge, Presiding

Submitted January 9, 2006^{**}

Before: HUG, O'SCANNLAIN and SILVERMAN, Circuit Judges.

Besy Arely Maldonado-Perez appeals from the 121-month sentence imposed following her jury trial conviction for conspiracy to commit hostage taking, in

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

violation of 18 U.S.C. § 1203, conspiracy to harbor illegal aliens, in violation of 8 U.S.C. § 1324(a)(1)(A)(iii) and (a)(1)(A)(v)(I) and (II) and (a)(1)(B)(i), and harboring illegal aliens, in violation of 8 U.S.C. § 1324(a)(1)(A)(iii), (a)(1)(A)(v)(II) and (a)(1)(B)(ii). We have jurisdiction pursuant to 28 U.S.C. § 1291.

Maldonado-Perez challenges the district court's enhancements for making a ransom demand and for multiple victims. Because these challenges were preserved below, we vacate the sentence and remand for resentencing under the now-advisory Guidelines. *See United States v. Booker*, 543 U.S. 220 (2005); *United States v. Kortgaard*, 425 F.3d 602, 610-11 (9th Cir. 2005).

SENTENCE VACATED and REMANDED.